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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/511,294

10/15/2004

Klaus Lenhart

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10/05/2006

DREISS, FUHLENDORF, STEIMLE & BECKER  
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GERMANY

EXAMINER

GARCIA, ERNESTO

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/511,294

Applicant(s)

LENHART, KLAUS

Examiner

Ernesto Garcia

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 September 2006 and 15 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-12 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/15/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election of Species*

Claims 13 and 14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on September 20, 2006.

Claim 10 is not generic as applicant argues. Note that the pot base 136 (viz. 36), in Figure 4, is not penetrated by a free end of the adjusting screw 118, facing away from the inner tube. Note that the term "free end" has the connotation that no other feature of the screw is at the end, i.e., the end without the head. Accordingly, the free end in the second species penetrates the end plug instead, which does not face away from the inner tube. In any event, claim 10 is readable on the elected species.

Further, applicant argues that claim 14 is generic. The examiner disagrees. Note that the plug 19 in Species I does not accommodate the adjusting screw in an axial and rotationally fixed manner, i.e., being screwed into the plug as shown in the second species. Note that the first species shows the screw being integral with the plug instead and thus not rotationally fixed in the plug.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "41" (Figures 1-3), "42" (Figures 1 and 3), "141" (Figures 3-5), and "142" (Figures 3 and 4) have been used to designate the same fin.

Note that the same issue occurs through out other reference characters in the figures. For instance, the same outer tube "12" and "112", and the inner tube "111" and "11" have been designated with different reference characters when the tubes are the same ones. Therefore, reference characters, "113" must be "13", "132" must be "32", "128" must be "28", "121" must be "21", "122" must be "22", "117" must be "17", "115" must be "15", "116" must be "16", "127" must be "27", "123" must be "23", "137" must be "37", and "136" must be "36" in Figures 3-5 because each these components are the same.

The drawings are objected to because the fin "141" in Figure 5 does not appear to have the curved end at the left side as shown in Figure 2. Note the examiner is assuming the fins 41 and 141 are the same according to Figures 1 and 4 being shown in side view. Further, if Figure 3 is a cross-section of Figure 2, why does the Figure 3 contain the reference characters of the second species, shown in Figure 4?

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because the description of reference character "24" is inconsistent. Note that "24" has been described as a "limit stop surface" on page 5, line 4, and a "radial edge" on page 5, line 10. Appropriate correction is required.

***Claim Objections***

Claims 8, 10, and 12 are objected to because of the following informalities:  
regarding claim 8, "it" in line 17 needs to be defined, and "supported at axially" in line 24 should be --axially supported at--; and,  
regarding claim 10, "pot-like" in line 2 should be --pot--; and,  
regarding claim 12, "formed by" in line 2 should be deleted. Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-12 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 8, the recitation "inner" in line 6 and "exterior" in line 10 makes unclear what the limit stop in line 6 is inner to, and what the limit stop in line 10 is exterior to. Further, the recitation "structured to be radially pressed apart" in line 12

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makes unclear what structure is required to allow the spreading element to be radially pressed apart.

Regarding claim 9, how does the pole being a stick further limit the pole?

Regarding claim 10, the recitation "pot-like fashion" in line 2 makes unclear what configuration corresponds to "pot-like fashion". Further, is "a pot base" in line 2 part of the configuration of "pot-like fashion", if so, then this appears as a double inclusion of the same feature.

Regarding claim 11, the recitation "smaller exterior diameter" in lines 2-3 is a relative term which renders the claim indefinite. The term "smaller" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In other words, relative to what is the exterior surface smaller? Further, the recitation "said shoulder axially guided at one area of said end of said inner tube" in lines 3-4 is misdescriptive since the shoulder 38 is not in an area of the end of the inner tube. Note that end constitutes within the boundaries of the inner tube and thus the shoulder 38 is adjacent to the end of the inner tube and not guided at an area of the end of the inner tube.

Regarding claims 12 and 15, the claims depend from claim 8 and therefore are indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by DSI-Sportartikel, German patent publication, DE-8,004,343 U1.

Regarding claim 8, Sportartikel discloses, in Figures 1 and 2, an adjustable-length pole comprising at least one outer tube 1, an inner tube 3 structured, an inner limit stop 4, and an exterior limit stop 11, an adjusting screw 5, a spreading element 10, and an axially moveable interior element 9. The inner tube 3 is dimensioned for insertion into the outer tube 1 in a telescoping fashion. The inner limit stop 4 is disposed at an end of the inner tube 3. The adjusting screw 5 is axially oriented within the outer tube 1 and supported in a rotationally fixed manner on the end of the inner tube 3. The exterior limit stop 11 is disposed on a free end of the adjusting screw 5. The spreading element 10 is structured to be radially pressed apart. The spreading element 10 has a bore A9 (see marked-up attachment) defining an inner cone A10.

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The inner cone **A10** opens towards the end of the inner tube **3**. The spreading element **10** is disposed between the inner limit stop **4** and the exterior limit stop **11**. The interior element **9** has an outer cone **A11** structured, dimensioned, and disposed for cooperation with the inner cone **A10** of the spreading element **10**. The interior element **9** has an internal threaded bore **A12** cooperating with the adjusting screw **5**. The spreading element **10** and the interior element **9** cooperate and form a spreading device axially supported at the end of the inner tube **3**.

Regarding claim 9, the pole is a stick.

Regarding claim 10, the spreading element **10** is configured in a pot fashion. A pot **A13** (see marked-up attachment) is penetrated by a free end of the screw **5** facing away from the inner tube **3**.

Regarding claim 11, the spreading element **10** comprises a cylindrical shoulder **8** having an exterior diameter and facing the inner tube **3**. The shoulder **8** being axially guided at one area adjacent the end of the inner tube **3**.

Regarding claim 12, the exterior limit stop **11** is a cap axially secured at the free end of the screw **5** after the spreading element **10** has been set in place.

Claims 8 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kupski, 3,145,669.

Regarding claim 8, Kupski discloses, in Figures 5-7, an adjustable-length pole comprising at least one outer tube **41**, an inner tube **40** structured, an inner limit stop **43a**, and an exterior limit stop **44a**, an adjusting screw **44**, a spreading element **16**, and an axially moveable interior element **17**. The inner tube **40** is dimensioned for insertion into the outer tube **41** in a telescoping fashion. The inner limit stop **43a** is disposed at an end of the inner tube **40**. The adjusting screw **44** is axially oriented within the outer tube **41** and supported in a rotationally fixed manner on the end of the inner tube **40**. The exterior limit stop **44a** is disposed on a free end of the adjusting screw **44**. The spreading element **16** is structured to be radially pressed apart. The spreading element **16** has a bore **27** defining an inner cone **27a**. The inner cone **27a** opens towards the end of the inner tube **40**. The spreading element **16** is disposed between the inner limit stop **43a** and the exterior limit stop **44a**. The interior element **17** has an outer cone **17a** structured, dimensioned, and disposed for cooperation with the inner cone **27a** of the spreading element **16**. The interior element **17** has an internal threaded bore **27** cooperating with the adjusting screw **44**. The spreading element **16** and the interior element **17** cooperate and form a spreading device axially supported at the end of the inner tube **40**.

Regarding claim 15, the interior element 17 has a protruding fin 32 guided in an axial slot 29 of the spreading element 16.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-282-7083. The examiner can normally be reached from 9:30-5:30. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*E.G.*

E.G.

September 28, 2006

Attachment: one marked-up page of Sportartikel, German publication, DE-8,004,343 U1

*Daniel P. Stodola*

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